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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,394	12/28/2006	Christian Prentner	D4700-00424	5935

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DUANE MORRIS LLP - Philadelphia
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

EXAMINER

ING, MATTHEW W

ART UNIT	PAPER NUMBER
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3637

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/585,394	Applicant(s) PRENTNER ET AL.	
	Examiner MATTHEW W. ING	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1 & 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rock (5,882,100) as applied to the claim(s) above, further in view of Hutzelman (2,873,150). Rock teach(es) the structure substantially as claimed, including a control roller comprising a bearing part (11) comprising a hard body. The only difference between Rock and the invention as claimed is that Rock fail(s) to teach a bearing part comprising a soft body, wherein the soft body at least in part projects in a the radial direction relative to the hard body. Hutzelman, however, teaches a bearing part comprising a soft body (28) projecting at least in part in a the radial direction relative to a hard body (18). It would have been obvious to one of ordinary skill in the art to include a substitute a bearing part, as taught by Hutzelman, for that of Rock, in order to reduce noise, wear, & slippage between said bearing part & the carcass & pull-out rails (see col. 2, lines 70-71 & col. 3, lines 40-49 of Hutzelman); and since the results of such a substitution would have been predictable; thereby providing the structure substantially as claimed.
3. Regarding claim 1, Rock teaches a carcass rail (5); a pull-out rail (8); a central rail (7); and a control roller (11) mounted rotatably about an axis on the central rail and in engagement with the carcass rail and the pull-out rail.
4. Regarding claim 1, Hutzelman teaches a soft body (28) projecting over only part of an axial extent of the hard body.

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5. Regarding claim 4, Hutzelman teaches a soft body (28) arranged in a region of the axial end side of the control roller.
6. Regarding claim 5, Rock as modified by Hutzelman teaches a control roller comprising a two-component construction (i.e., both the hard & soft body of said roller).
7. Regarding claim 6, Hutzelman teaches hard (18) & soft (28) bodies comprising two separate components which are assembled before mounting of the control roller.
8. Regarding claim 7, Hutzelman teaches a soft body (28) arranged between a shoulder (24) of the hard body and a bearing plate (i.e., flat portion of 18 distal from 24) of the control roller.
9. Regarding claim 8, Hutzelman teaches a soft body (28) fixed between a shoulder (vertical surface of 27 proximate 24) of the hard body (18) and a retaining washer (i.e., flat portion of 18 distal from 24).
10. Claims 1 & 4-8 can be alternately rejected, along with claims 9-10, under 35 U.S.C. 103(a) as being unpatentable over FR2,441,086 in view of Hutzelman (2,873,150). FR2,441,086 teach(es) the structure substantially as claimed, including a carcass rail (6); a pull-out rail (2); a central rail (5); and a control roller (3) mounted rotatably about an axis (i.e., axis of 8) on the central rail and in engagement with the carcass rail and the pull-out rail; said control roller comprising a bearing part (12 & 15) comprising a hard body (Item 15, which is made of plastic - see p. 2, lines 16-17). The only difference between FR2,441,086 and the invention as claimed is that FR2,441,086 fail(s) to teach a bearing part comprising a soft body, wherein the soft body at least in part projects in a the radial direction relative to the hard body. Hutzelman, however, teaches the inclusion, upon a bearing part, of a soft body (28) projecting at least in part in a the radial direction relative to a hard body (18). It would have been obvious to one of ordinary skill

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in the art to substitute a bearing part, as taught by Hutzelman, for that of Rock, in order to reduce noise & slippage between said bearing part & the carcass & pull-out rails (see col. 2, lines 70-71 & col. 3, lines 40-49 of Hutzelman); and since the results of such a substitution would have been predictable; thereby providing the structure substantially as claimed.

11. Regarding claims 9-10, FR2,441,086 teaches a spindle (combination of 8 & 16) having a cross section (through 16) that differs from circular by having a relatively larger diameter (Fig. 3) in a the pull-out direction of the pull-out guide; wherein the cross section of the spindle is roughly elliptical with a major axis extending in the pull-out direction.

12. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rock (5,882,100) & Hutzelman (2,873,150) as applied to the claim(s) above, further in view of Crescenzi (4,120,071). Rock & Hutzelman teach(es) the structure substantially as claimed, including a control roller (11) mounted on a spindle (remainder of 25 other than holding device); connecting means (i.e., means securing 11 to 25); and a holding device (portion of 25 securing remainder of 25 to 30). The only difference between Rock & Hutzelman and the invention as claimed is that Rock & Hutzelman fail(s) to teach a holding device snap-connected to the central rail. Crescenzi, however, teaches a holding device (combination of 27-28 & 43-44) permitting a snap-connection between a spindle (24) and an adjacent structure (12). It would have been obvious to one of ordinary skill in the art to substitute a holding device, as taught by Crescenzi, for that of Rock as modified, in order to permit easier assembly by permitting the spindle thereof to be snapped into place rather than riveted; and since the results of substituting one known holding device for another would have been predictable; thereby providing the structure substantially as claimed.

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13. Regarding claim 12, Crescenzi additionally teaches connecting means (combination of 29-30 & 44-45) permitting a snap-connection between a roller (13) and a spindle (24). It would have been obvious to one of ordinary skill in the art to substitute a connecting means, as taught by Crescenzi, for that of Rock as modified, in order to permit easier assembly by permitting said roller to be snapped to said spindle, thereby eliminating the need to hold said roller in place prior to attaching the spindle thereof to the central rail; and since the results of substituting one known holding device for another would have been predictable; thereby providing the structure substantially as claimed.

Response to Arguments

14. Applicant's arguments with respect to claims 1 & 4-12 have been considered but are moot in view of the new ground(s) of rejection.

15. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

16. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In this case, motivation to combine can be

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found in col. 2, lines 70-71 & col. 3, lines 40-49 of Hutzelman, which teaches the inclusion of a soft body upon the hard body of a bearing part in order to "provide traction", reduce wear, and "preclud[e] the possibility of objectionable noise".

17. In response to applicant's argument that "Applicant's new and beneficial result is to establish frictional engagement on the opposite side of the roller", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. Moreover, the presence of frictional engagement upon the bottom of the roller in Hutzelman is not an inherent to said roller, but is rather the byproduct of said roller's position relative to the rails of Hutzelman. Whereas the rollers of both Rock and FR2,441,086 are contacted by rails upon both the top & bottom ends thereof, it is therefore reasonable to conclude that modification of Rock or FR2,441,086 in view of Hutzelman would produce a structure wherein a roller established frictional engagement on both sides thereof.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janet M. Wilkens/
Primary Examiner, Art Unit 3637

MWI
1/22/10